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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,623

12/01/2003

Michael M. Kamrava

5603P001X2

4992

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06/09/2009

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EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

06/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/725,623	<b>Applicant(s)</b> KAMRAVA, MICHAEL M.	
	<b>Examiner</b> Camtu T. Nguyen	<b>Art Unit</b> 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/14/09, 10/16/08, 10/8/09</u>                                | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is responding to applicant's amendment filed on 12-17-2008.

Applicant remarked that there exists no motivation to combine the Gobby & the West et al references, as applied in the previous Office Action. The Examiner respectfully agreed with applicant's remarks. Thus, the rejection associated with such combination has been withdrawn. The pending claims have been carefully considered but deemed not allowable view of the following rejection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, the limitation a portion of the shaft including the second point is beveled in a second direction opposite the first direction defining a tip, applicant has no disclosure support for such limitation.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

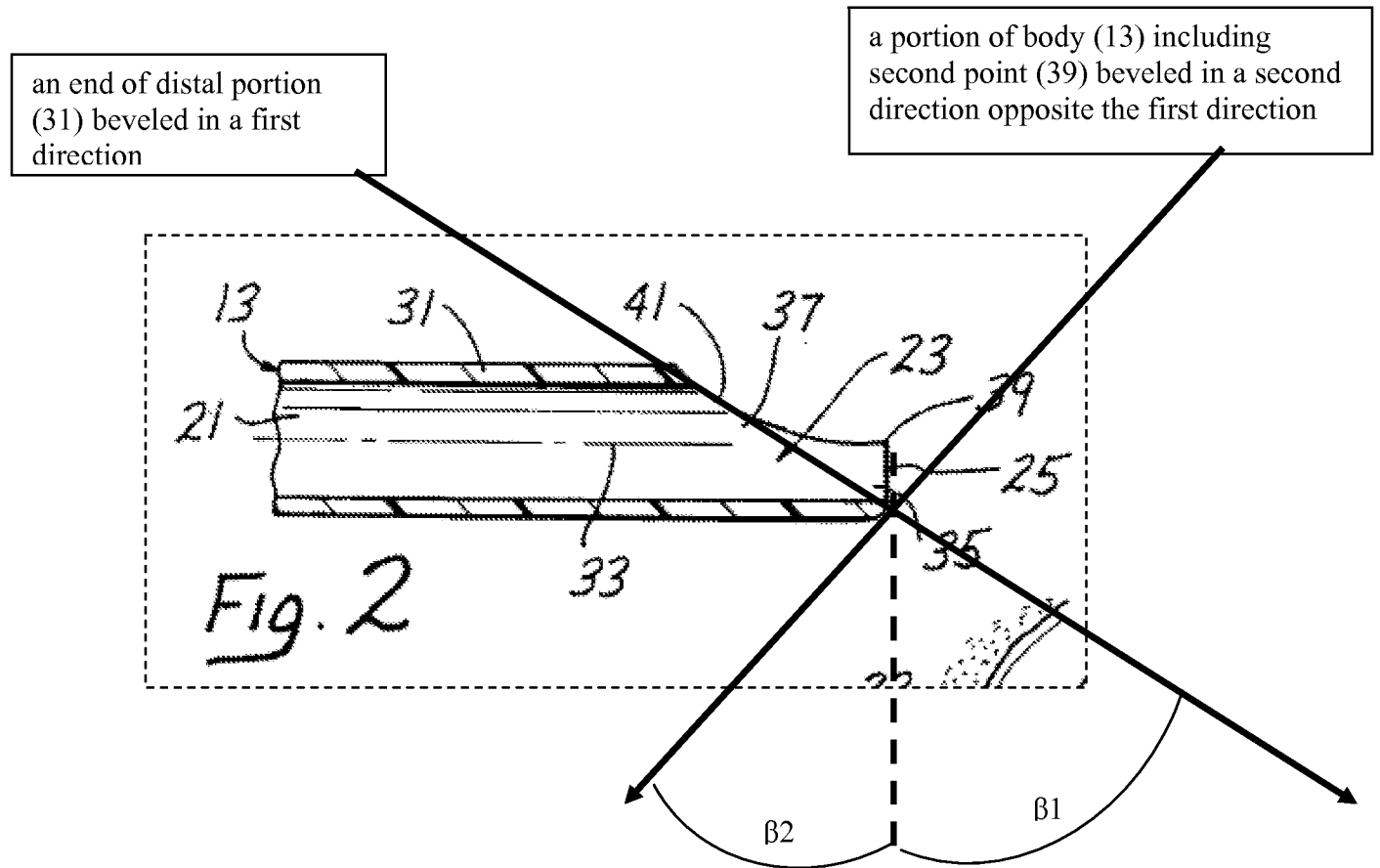
Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over by (U.S. Patent No. 4,474,576) and further in view of Bacich (U.S. Patent No. 5472419).

Gobby discloses an artificial insemination a delivery member (30) comprising a delivery section (51), a storage section (53), and a passage through both sections (51, 53), the delivery member (30) defines a first axis of symmetry throughout the passage. Figure 2 illustrating a distal portion of the delivery member (30) is offset so as to preferably between 2 to 5 degrees inclined to the longitudinal axis of the delivery member (30), thus, the distal portion of the distal delivery section (31) defines a second different axis of symmetry throughout the passage a first axis of symmetry.

The Gobby device does not disclose the distal passage portion of the delivery section (51) is beveled.

Bacich discloses a transfer catheter body (13) comprising a proximal portion (27), a distal portion (31), an elongated passage (21), the distal portion (31) having an end that is beveled in a first direction across the passage (21) from one side to another, thereby, rendering the bevel in its direction across the opening, as recited, a portion of catheter (13) including a second point (39) is beveled in a second direction opposite the first direction defining a tip, showing by  $\beta 1$  &  $\beta 2$  below. See illustration below.

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In view of Bacich, it would have been obvious to one skilled in the art during the time of this invention to modify the Gobby's distal passage portion of the delivery section (51) such that it would have a bevel, as such would facilitate the delivery process.

Regarding claims 2 & 3 and 14 & 15, particularly to claims 3 & 15 reciting the beveled opening angled between  $10^\circ$  to  $15^\circ$ , Figure 2 of Bacich illustrates such opening angle range.

Regarding claims 6 & 7 and 12 & 13, particularly to claims 7 & 13 reciting the second axis of symmetry differs by a deflection angle of 10 to 15 degrees from the first axis of symmetry, the Gobby's distal passage portion is deflected or offset from the longitudinal axis

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preferably by 2 to 5 degrees, however, the 10 to 15 degrees deflection is not out of the ordinary given the anatomy of each women varies from person to person, one skilled in the art during the time of the invention would have modify the Gobby's offset range to be 10 to 15 degrees from the longitudinal axis as such would accommodate various uteral anatomy.

Furthermore, applicant's specification discloses in paragraph 0028 the preferred deflection 10 to 15 degrees but lacks the criticality for the claimed deflection. Thus, such recited deflection falls within reasonable ranges, one skilled in the art would have considered such deflection ranges for purposes of optimizing the embryo delivery procedure.

With regards to claims 9 & 10 and 17 & 18, particular to claims 10 & 18 reciting the inner diameter of the tip is between approximately 400 and 500 micrometers, the Bacich reference discloses the diameter of the passage (21) is 0.5 millimeter or 500 micrometers, the diameter of the passage (21) is essentially inner diameter of the tip.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Camtu T. Nguyen/  
Examiner, Art Unit 3772

/Patricia Bianco/

Supervisory Patent Examiner, Art Unit 3772